IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 28TH NOVEMBER 2007/7TH AGRAHAYANA 1929

WP(C).No. 32831 of 2007(H)

PETITIONER:

V.ACHUTHAN NAIR,
TIME KEEPER, OPERATOR GRADE-II,
IPP OFFSET PRESS,
KERALA HEALTH RESEARCH & WELFARE SOCIETY,
TRIVANDRUM.

BY ADVS. SRI.T.H.ABDUL AZEEZ
& SRI.P.ANOOP (MULAVANA)

RESPONDENTS:

1. KERALA HEALTH RESEARCH & WELFARE SOCIETY, RED CROSS ROAD, GENERAL HOSPITAL CAMPUS, TRIVANDRUM-695 037, REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE MANAGING DIRECTOR, KERALA HEALTH RESEARCH & WELFARE SOCIETY, RED CROSS ROAD, GENERAL HOSPITAL CAMPUS, TRIVANDRUM-695 037.

BY ADV. SRI.ASOK M.CHERIAN,SC,KERALA HEALTH RES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C).No.32831 of 2007 H

Dated this the 28th day of November, 2007.

JUDGMENT

Petitioner is working as Time Keeper, Operator Grade II, IPP Offset Press, under the First respondent. He was earlier regularized in service as a skilled helper with effect from 17.1.1995. Consequent on the purchase of a new laminating machine, he was deputed for training in Azeration of Laminating Machine, which he underwent in 1997. According to the petitioner, he was promoted as Operator Grade II as per proceedings dated 14.10.1997. As per the Special rules brought into effect from 22.2.2000, the scale of pay sanctioned by the Government from the post of Operator Grade II was revised to Rs.4500-100-5000-125-7000 but according to the petitioner, the scale of pay sanctioned to him was Rs.3050-5230. Petitioner, therefore, had a grievance that he was not given the scale of pay applicable to Operator Grade

II. The scale of pay sanctioned to the petitioner was Rs.3050-5230. It seems that the petitioner wanted the scale of pay applicable to Operator Grade II, which as per the Special Rules, is applicable only in respect of an Operator of Offset Machine. Apparently, the Managing Director recommended that the petitioner be given the said scale, presumably taking note of the fact that he has been operating the Laminating Machine. The Managing Director's recommendations are contained in Ext.P2. Reference may also be made in this regard to Ext.P4.

2. In a statement filed by the respondents reference is made to the order issued by the Managing Director on 15.5.2003, wherein it was noted that the petitioner is working as Laminating Machine Operator and also doing additional work of time keeper in the first respondent's headquarters. Taking note of the fact that he is the only incumbent having knowledge and ability to operate the lamination

machine, the petitioner was appointed as Operator Grade II, but in the scale of pay of Rs.3050-5230 with effect from 29.4.1997. It seems that a complaint was forwarded by the Upa Lok Ayuktha to the investigating agency. The investigating agency went on to hold that the petitioner was not qualified for appointment to the post of Security Guard or Assistant Offset Machine Operator or Offset Machine Operator. There was an observation that the order of the Managing Director dated 15.5.2003 was irregular. Consequently, upon a direction issued by the Upa Lok Ayuktha, the petitioner's scale of pay was revised and it was decided to retain him in the scale of pay of Rs.3050-5230. In the meanwhile, taking note of the report of the investigating agency of the Upa Lok Ayuktha, the Government proceeded to direct the Managing Director to cancel the petitioner's appointment effected on 15.5.2003. This was set aside by this court in the judgment dated 28.8.2006 in W.P.(C) No.20587/06 essentially on the premise that the

Government's direction was without notice to the petitioner. Therefore, the correctness of the appointment of the petitioner as Operator Grade II pursuant to a decision taken in that regard by the then Managing Director is pending with the Government.

3. Learned counsel for the petitioner refers to Ext.P2 which contains a recommendation of the Managing Director to the effect that the petitioner be fitted in the scale of Rs.4500-100-5000-125-7000 with effect from 29.4.1997. This again is now reiterated in Ext.P4. Since there are financial implications, it requires Government's approval.

4. In the circumstances, after hearing Mr.Anoop, learned counsel for the petitioner and Mr.Asok M.Cherian, standing counsel for the respondents and the learned Government Pleader, the writ petition is disposed of in the following manner:

The 2nd respondent shall draw up an order taking into account the recommendations contained

in Exts.P2 and P4 within one month from the date of receipt of a copy of this judgment and forward the same to the Government within one month thereafter. On receipt of the same, the Government shall, taking into account the said recommendations and after hearing the petitioner, take a decision in the course of complying with the directions issued by this court in W.P.(C) No.20587/06 dated 28.8.2006. If approval is granted by the Government, petitioner shall be fitted in the scale of pay as decided and recommended by the Managing Director and appropriate consequential benefits arising therefrom shall be granted to him.

Sd/-
(V.GIRI)
JUDGE

sk/

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P.S. To Judge